



United States
Department of
Agriculture

Food and
Consumer
Service

Mountain
Plains
Region

1244 Speer Boulevard
Denver, CO
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APR 13 2001

Reply to
Attn of:

SP 01-06

Subject:

Questions and Answers on Policy Issues from Coordinated Review Effort (CRE), School Meals Initiative (SMI), Afterschool Care "Snack" Program (ASCSP), and Civil Rights (CR) Training Meeting held January 9-11, 2001 in Denver, Colorado

To:

STATE AGENCY DIRECTORS -
(Child Nutrition Programs)

Colorado ED, Iowa, Kansas, Missouri ED, Montana OPI,
Nebraska, North Dakota, South Dakota, Utah and Wyoming

This memorandum contains questions and answers for issues raised at the above-referenced meeting. Additionally, we are transmitting a number of other items, all of which are itemized at the end of this document.

Coordinated Review Effort (CRE):

C-1 Q: A State Agency (SA) was at a School Food Authority (SFA) looking at the documentation that households had supplied for verification. In one case, there was some indication that the household received child support, but it was not listed on the application. The SFA had only checked to see that the income on the application matched what was sent in. It was very close to the maximum. Additional income from child support would have probably made them ineligible. The SFA had not followed up on the child support. The SA questions whether or not this should be listed as an error on the S-5. One could take the position that since verification is a general area rather than a critical area of CRE, the reviewer could require corrective action but not list the error on the S-5. Is this correct?

C-1 A: According to the National Office, this was not the intent. This type of error should go on the S-5.

C-2 Q: In another situation, a household sent in pay stubs to verify income. The stubs indicated that the household probably received regular overtime. The SFA had checked to see that the regular salary matched the income on the application and did not follow up on the overtime. Is this correct?

C-2 A: No. This should go on the S-5 as an error. The SFA always has the opportunity during corrective action to contact the household, and, if after they provide any additional information and the category does not change, the SA simply takes that error off the S-5 before a claim is calculated.

C-3 Q: Why does Food and Nutrition Service recommend using October data for school site selection? Why not use month of review data?

C-3 A: It is recommended that the information used in school selection be obtained for the month of October; however, any month for which a Claim for Reimbursement has been filed and which best represents each school's participation by free eligibles may be used (CRE Guidance, page 2-3).

School Meals Initiative (SMI):

S-1 Q: The SA is trying to analyze a school that has the traditional meal pattern but is not using the K-3 and 4-12 age/grade groups. The groups used are K-5, 6-8 and 9-12. How do they complete an accurate analysis?

S-1 A: If the SA is unable to do an analysis because the school has not followed the age/grade groups, corrective action would be that they adjust their serving to reflect the required groups for traditional meal pattern. The SA could also require that they use what is allowed in the any reasonable approach regulation; that is, to serve portion sizes for grades 4-12 under traditional but use the nutrient levels for K-6 and 7-12 from the other menu planning approaches (enhanced, NSMP, or assisted NSMP) while using more "focused" nutrient and calorie levels as defined under the other menu planning approaches.

S-2 Q: In the example cited above, would the SA require the school to submit new information in order to complete an accurate analysis before it considers the reviewed completed?

S-2 A: No. Requiring corrective action is sufficient for counting the review as completed in the cycle.

S-3 Q: The SA has a school on Nutrient Standard Menu Planning (NSMP) who completed an analysis in one type of software and then switched to another software package. The school submitted paperwork from the first software that included daily menus but no weekly summary. Should the SA attempt to complete an analysis with the information it has or require the school to complete a new analysis?

S-3 A: The SA should require a new analysis to ensure full implementation of NSMP.

Afterschool Care "Snack" Program (ASCSP):

A-1 Q: Can magnet schools and alternative schools be "area eligible" on their own?

A-1 A: Yes, IF they have a specified attendance area. If such a school draws from the entire school district or has an unassigned attendance area (See SP 00-05, #B-5), then it doesn't have an attendance area per se and thus only qualifies its building if it has 50% or more of its enrollment free and reduced price eligible.

A-2 Q: If a small district has a school which has classes for a single grade only (e.g., sixth grade) in its own separate school building for the entire district, can that school establish "area eligibility" for the entire district?

A-2 A: Yes, if it has 50% or more of its enrollment free and reduced price eligible, it establishes all of its attendance area as "area eligible".

A-3 Q: If two schools are paired for mandated busing of students, and one of the schools has 50% or more of its enrollment free and reduced price eligible, with the bused students, which school creates area eligibility for its attendance area?

A-3 A: First look at which, if any, school with busing meets the 50%-or-more criterion. If a school meets the required criterion, then that school's own attendance area qualifies as area-eligible, even if it would not do so if the students who are bused in were not counted.

Civil Rights (CR):

CR-1 Q: Must the non-discrimination statement be placed on the notice of adverse action?

CR-1 A: Yes. This is a document that is sent to a member of the public and is concerning the Program. The statement is on the USDA prototype version of this form.

Free and Reduced-Price Process (F/R):

F-1 Q: A household approved for free or reduced-price meal benefits submits a new application later in the school year with new information that makes the household ineligible for benefits. Since the household has notified the school of the change, must the SFA give the household a 10-day notice of adverse action if the household's new circumstances result in a change? What if the child comes to the register with money?

F-1 A: Households are required to report changes in their circumstances (changes in income of \$50 per month, household size, food stamp/TANF status, etc.). Most households will not be aware of the affect, if any, these changes have on their eligibility. If the new information results in a reduction or termination, the household must be given the 10-day notice of adverse action prior to the change. The answer given in the Income Eligibility Guidance to School Meals, page 27, Question 7, states that "Whenever there is a termination or reduction of benefits, for whatever the reason, households **must** be provided the 10-calendar-day advance notice of adverse action." If after being notified that their eligibility will change in 10 days, the household still wants to immediately start paying for their meals, this is acceptable. We do not force households to accept free or reduced-price meals if they want to pay.

F-2 Q: The household contacts the SFA and indicates that the household situation has changed. The adult in the household does not reveal to the school what the new income is since the household is sure that their children will no longer qualify for F/R price meals. (For example, this happens when an adult changes employment, a second adult gets a job, or a single parent is remarried.) The household is telling the school they will go to paid meals. Must the school send the adverse action letter, with the provision for ten additional days of benefits?

F-2 A: Yes, as per the answer to question F-1 Q, above.

F-3 Q: The school sends the letter requesting verification documentation. Immediately, the household contacts the food service office and says they failed to let the school know that their situation has changed, and they won't be providing verification documents. They will be sending money for full-price meals. Must the school send the adverse action letter, with the provision for ten additional days of benefits?

F-3 A: Yes, as per the answer to question F-1 Q.

F-4 Q: The household has received temporary benefits, with an expiration date listed in the notification letter. The school has taken the extra step and reminded the household that benefits are temporary and must be updated before the expiration date to be considered for additional benefits. The family does not provide updated information about its circumstances. Must the adverse action letter, with the ten-day provision, be sent to give ten days beyond the initial expiration date?

F-4 A: "Temporary benefits" mean that the school needs to have contact with the household to determine if the latter's "temporary" situation has changed, but the benefits would not automatically "expire". However, it would be acceptable to establish an "expiration date" and then send a notice of adverse action to the household as of the "expiration date" given on the approval letter, if the household has not contacted the school on its own to report its current circumstances.

F-5 Q: Can a line ("—") be placed where a social security number is requested on an application or is the word "None" required when the applying parent has no number?

F-5 A: The word "none" is required if the household member signing the application has no social security number. While 245.6(a) states: "In lieu of a social security number, the household may indicate the adult household member who signs the application does not possess a social security number," all USDA-FNS prototype applications state that the only acceptable indication that the household member signing the application does not have a social security number is to write "none" (or the equivalent word in whatever non-English language the form uses) where the number is supposed to be written.

F-6 Q: May a principal or other school official complete an application for a student whose family is known to be in difficult economic circumstances?

F-6 A: The answer is "yes", but with important qualifications about how this may be done. Page 20 of the Income Eligibility Guidance Handbook makes it clear that a school official may complete an application on behalf of a student, but only if the official knows that the household meets the essential eligibility criteria for any application—that is, the household meets the income eligibility guidelines, based on the number of household members and their income (or categorical eligibility through receipt of Food Stamps, etc.). The official must also state on the application the source of the information he or she has used for the income and number of household members, etc. for determining the household's circumstances. Unfortunately, household economic factors such as high medical bills or the like cannot be considered in determining free and reduced price eligibility. In such cases where a child is not eligible for free or reduced price meals, but the household is in economic difficulties, the school may wish to consider paying for a full-pay child's meals out of an assistance fund set up outside of the school food service.

Meal Service (MS):

M-1 Q: A school uses Offer Versus Serve (OVS) for all students in a food-based menu planning system. It has a serving area where all five components are available. All students must have three components before leaving the area, and the meal is counted using the roster as they leave. Outside this area (past the meal checker) is a salad bar that can be selected by all students in any quantity desired. There is no extra charge. They do not intend that it be counted as part of the meal; it is an "extra." The meal count is accurate as no meals are claimed without three components, but is this correct use of OVS? If no, do we insist on moving the meal checker to the end of the salad bar?

M-1 A: This arrangement is an acceptable practice under OVS in food-based menu planning. However, it should be noted that "extras" are to be included in the nutrient analysis to measure compliance with USDA's nutrition standards.

M-2 Q: Same question only there are only four components available in the serving area but all still must take three before leaving the area. The item beyond the meal checker could be a salad bar or the milk. Are all the meals non-reimbursable as only four components are offered prior to the count? The meal count is accurate as no meals are claimed without three components, but is this correct use of OVS? If no, do we insist on moving the meal checker beyond the fifth component?

M-2 A: OVS has not been properly implemented in this case. A minimum of five components must be offered to students, as per 7 CFR 210.10 (k)(6), and here students are permitted to refuse only one of the first four items when, if OVS were properly implemented, they could refuse two items as long as they chose the fifth item. The meal checker has to be moved, in order to be positioned at the point of service, which is after the minimum of five components have been offered.

M-3 Q: A school using OVS offers milk and fruit juice in a cooler at the start of the line. The students are instructed that they may choose EITHER milk OR juice, but cannot have both at the unit price. The juice is not offered as a component and is therefore not considered part of the reimbursable meal.

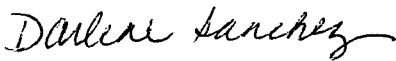
M-3 A: It is not permissible to require students to make a choice between milk, and one or more other beverages, within OVS procedures. Milk, as a component, must "stand alone", and be served to, or be refused by, each student going through the serving line. Our memorandum SP 97-04 addressed this issue with respect to nutrient standard menu planning, but the policy stated therein is also applicable to food based menu planning as well. In requiring students to choose between taking milk or taking another beverage is to set up, in effect, a "beverage" category and thereby violate OVS.

Attached to this memorandum are the following items:

- 1) CR videos and packets for two states who were unable to attend the training. This information may be used to train staff members, if so desired.
- 2) Big Brother Requisitions You! Orwell's Opportunity, Challenge and Floatum piece referenced by Rafael Zambrano, Acting Child Nutrition Director at the time of the meeting.
- 3) Corrected attendee list showing the correct e-mail address for Connie LaBarr of Iowa
- 4) Corrected CRE case study

Also please note that Colorado Department of Education (CDE) continues to update its electronic version of the CRE forms. The contact person is Herminia Vigil who can be reached at 303-866-8666. She welcomes any input as to modifications that may be necessary for improvement. CDE accepts no responsibility for the accuracy of the e-CRE system including any CDE-developed base version of e-CRE to which any other party, including other state agencies, USDA, or contractors, have added, modified, or otherwise revised any of the e-CRE design or modules. We, as well as CDE, continue to support e-CRE, as we recognize the value of this tool to supplement the CRE review process.

If you have questions about any of the above-referenced questions and answers, please feel free to contact Joe Fisher or Marj DeBoer at 303-844-0355.



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Attachments